THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.11567 of 2007

Date 7-6-2007

Between:
The Superintendent of Post Offices,
Anantapur Division, Anantapur and others.

.....PETITIONERS

AND

E. Ramana

.....RESPONDENT

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION NO.11567 of 2007

ORDER: (per Smt. T. Meena Kumari,J)

The present writ petition is filed by the petitioner-Department aggrieved by the orders passed by the A.P. Administrative Tribunal in O.A. No. 1618 of 2003, dated 9.9.2004.

The facts in brief are that the respondent herein was appointed as EDM/DA. Mutala on 13.4.1976 and he was assigned seniority at Sl. No.84 of E.D. Agents, as circulated by the Department. It is alleged that the persons senior to the respondent have either been promoted to Group 'D' posts or have become ineligible or retired from the service and he alone was left out. It is further alleged that the person who was senior to the respondent and who figured at Sl. No. 80 though was selected in the year 2002 for Group 'D' post, but, he declined the said promotion. Therefore, the respondent is the next person to be promoted to the said post. The Department also promoted him on 1.7.2003 to Group 'D' post on ad hoc basis and posted him at Anantapur. The grievance of the respondent is that the next D.P.C., which should have been conducted in the month of January, 2003 to consider his case for absorption into Group 'D' post has not been held and the respondent was being informed orally that he had to vacate the post in question by 1.1.2004. Then the respondent made a representation to the Department on 27.10.2003 for early holding of D.P.C. and when no action was taken by the Department on the said representation filed by the respondent, the respondent filed O.A. No. 1618 of 2003 before the Central Administrative Tribunal, Hyderabad Branch.

In the reply affidavit filed by the petitioner-Department before the Tribunal, the Department stated that the next D.P.C. which was to be convened on 1.1.2003 to consider the case of the candidates for the vacancies that may arise during 2003 could not be convened on account of the ban imposed in filling up of Group 'D' post with effect from 9.8.2002. It was further stated that even though one post was available for the year 2003, due to the ban, D.P.C. could not be convened. In case, the ban is lifted, the case of the respondent would be considered. The mere fact that the respondent worked in Group 'D' post for some time, would not confer any right upon him for regularization in the said post.

The Tribunal after hearing the learned counsel for the petitioner-Department and the learned counsel for the respondent, by the order impugned in this writ petition, disposed of the said O.A. with a direction to the Departmental Authorities to allow the respondent herein to work in any existing vacancy of Group 'D' post on ad hoc basis, if any vacancy is available till a regular candidate is being appointed in the said post after the removal of the ban. Aggrieved by the said order, the petitioner-Department filed the present writ petition.

There is no dispute about the fact that the D.P.C. could not be held for the year 2003 in view of the ban imposed by the Government. There is also no dispute about the fact that the respondent is the senior most among the persons who are eligible for promotion. In view of the fact that the respondent was allowed to work as substitute in a leave vacancy of Group 'D' post with effect from 1.7.2003, the Tribunal was justified in directing the Department to allow the respondent to work in any existing vacancy of Group 'D' post on ad hoc basis, if any vacancy is available, till a regular candidate is appointed in the said post. .

In the circumstances, we do not find any illegality or irregularity in the order of the Tribunal warranting interference. The writ petition is accordingly dismissed. No costs.

T. MEENA KUMARI,J

DATE: 7th June, 2007

G. CHANDRAIAH,J

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